

# 20. LAWS, REGULATIONS, DIRECTIVES, AND POLICIES APPLICABLE AND RELEVANT TO NATURAL RESOURCES MANAGEMENT

*“When we try to pick out anything by itself, we find it is hitched to everything else in the universe.”<sup>35</sup>*

There are a number of laws which affect natural resources management on Fort Richardson. National Environmental Policy Act (NEPA) and the Sikes Act are the primary laws affecting day to day operations.

## 20-1 NEPA

NEPA was created to disclose environmental concerns with human activities and resolve them to the best degree possible. Implementing NEPA regulations (AR 200-2, *Environmental Effects of Army Actions*) requires mitigation of damage to the environment. NEPA was not legislated to stop actions. Rather, it was crafted to identify environmental problems and attempt to resolve them using planning at early stages of project development.

### 20-1a Objectives

- ▶ Identify projects and activities on Fort Richardson that might impact natural resources and work with project planners to resolve issues early in the planning process using NEPA
- ▶ Ensure this INRMP complies with NEPA requirements
- ▶ Maintain USARAK compliance with NEPA

### 20-1b NEPA Implementation

#### 20-1b(1) Responsibility

The USARAK Natural Resources Branch has primary responsibility for NEPA compliance and docu-

mentation at Fort Richardson. Other ERD personnel assist with this mission as required. It is the responsibility of military commanders, trainers, and civilian supervisors to inform the Natural Resources Branch of any actions that may impact the environment and to coordinate appropriate NEPA documentation. Failure to do so may necessitate corrective disciplinary and mitigative actions.

#### 20-1b(2) NEPA Documentation

The U.S. Army, as well as other federal agencies, is required by the National Environmental Policy Act (Public Law 91-190, 1969) to evaluate the environmental impacts for actions and integrate such evaluations into their decision-making processes. In addition, agencies are required to solicit and respond to comments from the public, affected interests, and relevant government agencies on the effects of proposed actions before and after the environmental documentation is prepared. This process is designed to ensure that effects on the environment are not only considered, but are balanced with the benefits of the action.

Army Regulation 200-2 (*Environmental Effects of Army Actions*) requires the proponent to prepare and fund NEPA documentation. At Fort Richardson, proponents of projects prepare this documentation, which is ideal since it involves project managers (or military unit leaders) in decisions involving NEPA.

<sup>35</sup>John Muir, Naturalist

Categorical Exclusions (CXs) may be used for NEPA documentation of projects and actions with low environmental impacts and non-controversial actions. CXs are used to reduce paperwork and eliminate the preparation of Environmental Assessments (EAs) when they are not required. Some CXs require no written documentation while others require the preparation of a one page Record of Environmental Consideration (REC). CXs are usually prepared by the Natural Resources Branch staff and can be approved by the Director of Public Works. Appendix A in AR 200-2 lists 29 CXs which can be used for actions on Army lands.

EAs are typically required for routine projects and actions that do not qualify for CXs. An EA can be used to decide whether or not significant impacts will result if the action is implemented and whether an EIS is required. A Finding of No Significant Impact (FONSI) is required as a summary statement accompanying EAs. The FONSI provides a description of mitigation measures required for the action to reduce the environmental impacts to non-significant or acceptable levels.

EAs can be prepared in-house as well as by proponents of actions and contractors. All EAs concerning projects or actions on Army lands must be approved by USARAK's Commanding General (CG). Signature blocks for the preparer, reviewers, and the CG will be placed on the FONSI as this summary statement attests that no significant impacts will result if the actions are implemented in accordance with provisions of the EA and FONSI. EA actions normally require a public notice and a 30-day public comment period prior to initiation of action.

NEPA documentation could be improved at Fort Richardson. It is done reasonably well for large projects, but not with regard to routine or relatively small projects. For example, NEPA documentation is not done for annual snow plowing operations. On at least one occasion, snow was dumped into and damaged prime wildlife habitat when there were other better options available. Other maintenance projects where NEPA should be used to ensure minimal damage to natural resources include right-of-way clearing, road construction, target or range land clearing, ammo storage clearing, and drop zone maintenance.

Army installations routinely prepare Environmental Impact Statements to document the training mission and comply with NEPA. U.S. Army Alaska does not have environmental documentation for the current and projected training mission on Fort Richardson. This results in the installation having to prepare environmental documents for each individual training exercise that has more than minimal impacts. This has become a burden on the installation environmental staff or requires a large amount of funding to hire contractors to have the work completed. Time constraints also cause problems in not having the documents completed on schedule. It is USARAK's goal to obtain funding for preparation of a Programmatic EIS that will cover routine training activities for a ten-year period. This will afford the opportunity to review these actions, work out environmental problems, and select acceptable mitigation well in advance of the training exercises.

### *20-1b(3) Mitigation*

Mitigation is required by NEPA and AR 200-2 when a proposed action would cause adverse effects to the environment. Mitigation is an excellent way to either force consideration of less damaging options or provide a means to off-set damage to the environment. Mitigation that is identified in a FONSI is a Class 1 "must fund" for environmental purposes. This, for the first time, provides a reliable mechanism to fund mitigation included in NEPA documents. USARAK will ensure compliance with this requirement.

Enforcement of mitigation identified in NEPA documentation is an Army-wide problem. NEPA is not intended to end when papers have been signed and approved. A FONSI is a legally binding document. Mitigation must be funded and implemented. This implies enforcement on the part of USARAK Natural Resources. Field personnel may assist with monitoring the effectiveness of mitigation projects. It is important to identify problems and determine appropriate corrective actions.

## **20-1c NEPA and Natural Resources Management**

The Natural Resources Branch must use NEPA to ensure its activities (as described in this INRMP) are properly planned, coordinated, and documented.

It also uses NEPA to identify problems associated with other organizations' projects that affect the post's natural resources when it has the opportunity to review such projects. Therefore, the Natural Resources Branch serves as both a proponent and regulatory agent for NEPA.

Siting range-related projects is perhaps the most basic decision that requires input from natural resources personnel. If this phase is done within the cooperative spirit of NEPA, most other environmental problems are generally resolved with relative ease. Decisions such as specific siting or mission planning should be cooperatively discussed prior to preparing actual NEPA draft documents. Even though it is the proponent's role to prepare NEPA documentation, this task is greatly facilitated if the proponent is preparing the document based on ongoing discussions with environmental experts.

An important offshoot of proper NEPA implementation is that projects are often enhanced by the effort. Siting is one of the most common examples of such project enhancement. When natural resources managers understand mission/project needs in terms of environmental features and requirements, they often not only provide more potential site options to mission or project planners, but also offer alternatives to avoid future environmental conflicts.

In 1998–2003, USARAK will take the steps listed below to improve the application of NEPA for enhancing training opportunities while protecting and conserving Fort Richardson's natural and cultural resources.

- ▶ Review proposed actions during the project concept phases whenever possible
- ▶ Ensure that mitigation measures are included in the NEPA document when there is a proposed action that will impact natural resources. If such mitigation is included, ensure that it is entered in the Environmental Program Requirements (EPR) funding document
- ▶ Use natural resources capabilities to provide mitigation. These resources include LRAM, special area protection, wetland management
- ▶ Monitor projects to ensure that mitigation is accomplished and that restrictions included

within the REC, FONSI, and Record of Decision (ROD) are followed

- ▶ Require that routine, generally DPW, maintenance projects are evaluated using NEPA. This especially includes any projects that disturb soil or clear vegetation
- ▶ Require that individual environmental documents be prepared for military training exercises if a programmatic document has not been completed for the overall training mission
- ▶ Use the lowest level of NEPA documentation feasible to minimize paperwork
- ▶ Ensure NEPA Coordinator attends regular meetings where projects are first discussed, e.g., Quarterly Environmental Quality Control Committee (EQCC), Installation Planning Board Meeting, and others

## 20-1d NEPA and This INRMP

Effects of implementing this INRMP are being documented through an EA. This EA for the INRMP will reduce the size of future Fort Richardson NEPA documents. This INRMP can be referenced with regard to description of affected environment to reduce verbiage and duplication in other NEPA documents.

On July 11, 1995, an initial public-scoping meeting was held at 6 p.m. at the Z.J. Loussac Library in Anchorage. The meeting was publicized in the *Anchorage Daily News*. Two people attended. They were advised of the INRMP process and invited to provide input either at the meeting or during the INRMP planning process. Neither provided any material for this plan, nor had any particular issue that related to this INRMP.

Other more specific action plans may be prepared to support this INRMP during 1998–2003. Each of these will be documented at the appropriate level in accordance with NEPA.

Any changes or modifications to this plan, besides requiring concurrence from all signatories, may constitute a need for additional NEPA documentation.

## 20-2 Federal Laws

Appendix 20-2 contains an annotated list of federal laws that potentially affect implementation of this INRMP.

## 20-3 Federal Regulations

Appendix 20-2 includes a comprehensive summary of major Federal Regulations that may be relevant to natural and cultural resource management on Fort Richardson. Included in the list is a brief summary of each regulation.

## 20-4 Executive Orders

Appendix 20-2 includes a comprehensive summary of Executive Orders that may be relevant to natural and cultural resource management on Fort Richardson. Included in the list is a brief summary of each order.

## 20-5 DOD Directives and Army Regulations

Appendix 20-2 includes a list of DOD directives and Army regulations critical for natural and cultural resources management. These regulations typically provide specific actions and procedures that must be followed in order to comply with Federal Laws and Regulations. The DOD and the Army have developed these regulations to simplify and standardize compliance. This list was developed so that awareness of DOD and Army requirements are enhanced. These regulations have been summarized. An important caveat is that DOD decision-makers should have a firm understanding of these regulations.